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10/788,914	02/27/2004	James B. Shepherd	JBST-27,606US	7505

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT PAPER NUMBER

1724

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,914

Applicant(s)

SHEPHERD, JAMES B.

Examiner

Matthew O. Savage

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 19-22 is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16 is/are rejected.
- 7) ☒ Claim(s) 14,15 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2-27-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of the lower end portion of the filtration element being secured to the lower housing must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities:

On lines 18 and 24 of paragraph 12, "hallow" should be changed to --hollow--;

On line 2 of paragraph 15, "32e" should be changed to --36e--;

Appropriate correction is required.

Claim 18 is objected to because of the following informalities:

on line 1 of claim 18, "sourse" should be changed to --source--.

Appropriate correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to adequately disclose how to construct an embodiment in which the lower end portion of the filtration element is attached to the lower housing as recited in instant claim 1.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 2 of claims 8 and 16, "said light source" lacks antecedent basis. It is suggested that the dependency of claim 8 be changed from claim 5 to claim 6 and the dependency of claim 16 from claim 12 to claim 14. It will be assumed for examination purposes that applicant intended claims 8 and 16 to depend from claims 6 and 14, respectively.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Holz et al.

With respect to claim 1, Holz et al disclose a freestanding portable liquid filtration device including an upper housing 1 having an upper end, an enclosed lower end 4 and an upper housing sidewall, the upper housing interiorly defining an upper chamber, and the enclosed lower end 4 of the upper housing at least one aperture (e.g., receiving spout 9) extending there through; a lower housing 2 having an open top, an enclosed bottom and a lower housing sidewall, the lower housing interiorly defining a lower chamber, and the lower housing further having a lower housing sidewall with at least one discharge port (e.g., receiving spout 18) disposed in a lower portion of the lower housing, the enclosed lower end of the upper housing 4 and the open top of the lower housing being configured for fitting a portion of the lower end of the upper housing into

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an upper portion of open top of the lower housing; a filtration element 6, the filtration element having a first portion 16 through which fluid passes into the filtration element, a second portion 9 from which fluid is discharged from within the filtration element, and an end portion with an annular-shaped shoulder (e.g., defined by tray 7) which extends circumferentially around the lower end portion; wherein the filtration element is disposed with the first portion of the filtration element in fluid communication with the upper chamber, and with the lower end portion secured to the upper housing, and with the second portion 9 of the filtration element in fluid communication with the lower chamber; wherein liquid disposed within the upper chamber will flow through the first portion of the filtration element, through the filtration element, into the second portion of the filtration element and into the lower chamber in response to gravity, such that the liquid passes through the aperture in the lower portion of the upper chamber and into the lower chamber defined within the lower housing, and a base (e.g., receiving the lower end of container 2) having an upwardly facing opening for fitting the bottom of the lower housing within the upwardly facing opening.

As to claim 2, Holz et al disclose a lid 3 for covering the upper end of the upper chamber.

Concerning claim 3, Holz et al disclose a one rib (e.g., defined by shoulder 5) which circumferentially extends exteriorly around the upper housing sidewall and is capable of deflecting liquid outward from the upper housing sidewall.

With respect to claim 9, Holz et al disclose a freestanding portable liquid filtration device including an upper housing 1 having an open upper end, an enclosed lower end

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4 and an upper housing sidewall, the upper housing interiorly defining an upper chamber, and the enclosed lower end of said upper housing at least one aperture extending there through (e.g., receiving spout 9), a lower housing 2 having an open top, an enclosed bottom and a lower housing sidewall, the lower housing interiorly defining a lower chamber, and the lower housing further having a lower housing sidewall with a discharge port (e.g., receiving spout 18) disposed in a lower portion of the lower housing sidewall, the enclosed lower end of the upper housing and the open top of the lower housing being configured for fitting the enclosed lower end within the top of the upper housing, with the upper housing disposed a top the lower housing; a filtration element 6, the filtration element having an exterior portion 16 through which fluid passes into the filtration element, an interior portion 9 from which fluid is discharged from within the filtration element, a lower end portion 7 with an annular-shaped shoulder which extends circumferentially around the lower end portion; wherein the filtration element is disposed within the upper chamber, adjacent to the aperture in the enclosed lower end of the upper housing, and with the lower end portion 9 of the filtration element extending through the aperture in the enclosed lower end of the upper housing and into the lower housing; wherein liquid disposed within the upper chamber will flow through the exterior portion of the filtration element, through the filtration element, into the interior portion of the filtration element and then into the lower chamber in response to gravity, a control valve 18 extending within the discharge port, secured to the lower housing sidewall, and operable for controlling fluid flow from within the lower chamber, and a base (e.g., receiving the lower end of the container 2) having an upwardly facing opening for fitting

the bottom of the lower housing within said upwardly facing opening. Holz et al fail to specify an interference fit between the open top of the lower housing and the enclosed lower end of the upper housing as well as between the bottom of the lower housing and the base, however, such a modification would have been obvious in order to optimize the fit between the parts to prevent disengagement of parts of the device while moving the device. Holz fails to specify a seal disposed between the annular shoulder of the filtration element and the lower end of the upper housing to sealingly engage there between in response to the lower end portion of the filtration element being threadingly secured to a fastener disposed beneath the enclosed lower end of the upper housing. Gadgil et al disclose a seal 26 disposed between the annular shoulder 23 of a filtration element and the lower end of an upper housing 5 to sealingly engage there between in response to the lower end portion of the filtration element being threadingly secured to a fastener 27' disposed beneath the enclosed lower end of the upper housing (see FIG. 1b) and suggests that such an arrangement provides a secure seal between the outlet of the filter and the enclosed lower end of the upper housing. It would have been obvious to have modified the device of Holz et al so as to have included the seal and threaded fastener arrangement for the filter element as suggested by Gadgil et al. in order to provide a secures seal between the filter element and the enclosed lower end of the upper housing.

As to claim 10, Holz et al disclose a lid 3 for covering the upper end of the upper chamber.

Concerning claim 11, Holz et al disclose a one rib (e.g., defined by shoulder 5) which circumferentially extends exteriorly around the upper housing sidewall and is capable of deflecting liquid outward from the upper housing sidewall.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holz et al in view of Overboe et al.

Holz et al fail to specify the pre-filtration device. Overboe et al disclose a filtration device including a rim 10, 11 and a screen portion 12 that can be disposed upon an upper end of a container with the screen portion 12 extending downward into the container such that liquid within the screen portion will flow into the container and suggests that such an arrangement will strain the liquid entering the pail and prevent sediment from the environment from entering the container. It would have been obvious to have modified the device of Holz et al so as to have included the filtration device as suggested by Overboe et al in order to prevent sediment from entering the upper chamber.

Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holz et al in view of Magnusson.

Holz et al fail to specify the upper housing and lower housing as being formed of a transparent material, such that a level of the liquid in the upper and lower containers may be observed through the upper sidewall and the lower sidewall. Magnusson discloses an upper housing 6 and lower housing 4 as being formed of a transparent material, such that a level of the liquid in the upper and lower containers may be observed through the upper sidewall and the lower sidewall. Magnusson teaches that such an arrangement enables a user to visually determine an available quantity of drinking water and to gauge the condition of the replaceable filter (see lines 18-22 of col. 4). It would have been obvious to have modified the filter of Holz et al so as to have included transparent upper and lower housings as suggested by Magnusson in order to enable a user to visually determine an available quantity of drinking water and to gauge the condition of the replaceable filter.

Claims 14 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6-8 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action.

Claim 18 would be allowable if amended to overcome the objection set forth above.

Claims 17 and 19-22 are allowed.

The prior art fails to teach or suggest a base having an upwardly facing opening for fitting the bottom of the lower housing within the upwardly facing opening with the base including a light source which illuminates the lower housing as recited in claims 6 and 14.

The prior art fails to teach or suggest the at least one protuberance exteriorly extending from the enclosed lower end of the upper housing such that the enclosed lower end of the upper housing being configured for fitting the enclosed lower end of the upper housing and the at least one lateral protuberance within the top of the lower housing with an interference fit as recited in instant claim 17.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O. Savage whose telephone number is (571) 272-1146. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Savage

Matthew O Savage
Primary Examiner
Art Unit 1724

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July 19, 2006